

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

HILTON LLOYD KELLER,)
)
Plaintiff,)
)
v.) Case No. 3:06-cv-661 JPG
)
ADRIAN FEINERMAN and DR. ELYEA,)
)
Defendants.)

ORDER

On April 8, 2009, the Court set a hearing in this action on Defendants' affirmative defense that Plaintiff failed to exhaust his administrative remedies prior to filing suit in violation of the Prison Litigation Reform Act (Doc. 46). The order directed the Defendants to notify the Court by April 22, 2009, whether they intended to pursue this affirmative defense. Defendants Feinerman and Elyea informed the Court that they would not be pursuing the affirmative defense (Docs. 49 and 50). The Court thus considers the affirmative defense withdrawn. Accordingly, a hearing on the question whether Plaintiff exhausted his administrative remedies is no longer necessary. The hearing set for June 2, 2009, is hereby **CANCELED**.

IT IS SO ORDERED.

DATED: April 28, 2009

s/ Donald G. Wilkerson
DONALD G. WILKERSON
United States Magistrate Judge